

THIRTEENTH DAY - JANUARY 28, 2002

LEGISLATIVE JOURNAL

NINETY-SEVENTH LEGISLATURE SECOND SESSION

THIRTEENTH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, January 28, 2002

PRAYER

The prayer was offered by Pastor Sharon Stevens, United Methodist Church, Wausa, Nebraska.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Kristensen presiding.

The roll was called and all members were present except Senator Maxwell who was excused; and Senators Bromm, Dierks, Engel, Hartnett, Landis, McDonald, Redfield, Schrock, Vrtiska, and Wickersham who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twelfth day was approved.

NOTICE OF COMMITTEE HEARINGS

Banking, Commerce and Insurance

Room 1507

LB 885	Monday, February 4, 2002	1:30 PM
LB 1016	Monday, February 4, 2002	1:30 PM
LB 1048	Monday, February 4, 2002	1:30 PM
LB 1163	Monday, February 4, 2002	1:30 PM
LB 963	Tuesday, February 5, 2002	1:30 PM
LB 1012	Tuesday, February 5, 2002	1:30 PM
LB 1020	Tuesday, February 5, 2002	1:30 PM
LB 1071	Tuesday, February 5, 2002	1:30 PM

(Signed) David M. Landis, Chairperson

ANNOUNCEMENTS

Senator Wehrbein designates LB 523 as his priority bill.

Senator Smith designates LB 564 as his priority bill.

Senator Price designates LB 460 as her priority bill.

AMENDMENT - Print in Journal

Senator Beutler filed the following amendment to LB 460:
AM2312

(Amendments to Standing Committee amendments, AM1697)

- 1 1. On page 1, line 6, strike "total" through the first
2 comma and show as stricken; in line 23 after the last comma insert
3 "and"; and in line 24 strike beginning with the comma through "of"
4 and show as stricken.
- 5 2. On page 2, line 1, strike "contingency funds" and
6 show as stricken; in line 12 after the first comma insert "and";
7 and strike beginning with the last comma in line 12 through "funds"
8 in line 13 and show as stricken.

GENERAL FILE

LEGISLATIVE BILL 251. Title read. Considered.

Senator Beutler offered the following amendment:
FA827

On page 2 strike lines 23 and 24

On page 3 strike lines 12 and 13 and 14 and 15 and 16

On page 3 line 17, strike the entire line except the last "The".

The Beutler amendment was adopted with 29 ayes, 0 nays, 14 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 36 ayes, 0 nays, 7 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 814. Title read. Considered.

Senator Landis renewed his pending amendment, AM2382, found on page 337.

The Landis amendment was adopted with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

Senator Suttle asked unanimous consent to be excused until she returns. No objections. So ordered.

LEGISLATIVE BILL 235. Title read. Considered.

The Standing Committee amendment, AM0494, found on page 674, First Session, 2001, was adopted with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 385. Title read. Considered.

Advanced to E & R for review with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 458. Title read. Considered.

Senator Baker renewed his pending amendment, AM2277, found on page 286.

The Baker amendment was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Senator Bruning asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Baker renewed his pending amendment, AM2293, found on page 287.

The Baker amendment was adopted with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

Senator Burling asked unanimous consent to be excused until he returns. No objections. So ordered.

LEGISLATIVE BILL 112. Title read. Considered.

Senator Chambers offered the following amendment:
FA828

P. 4, line 3, after the period add: "No person who performs labor or work pursuant to this section shall be required to wear manacles, shackles or other restraints"

The Chambers amendment was adopted with 35 ayes, 0 nays, 10 present and

not voting, and 4 excused and not voting.

Advanced to E & R for review with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 604. Title read. Considered.

Senator Janssen asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 491. Title read. Considered.

Pending.

STANDING COMMITTEE REPORT Nebraska Retirement Systems

LEGISLATIVE BILL 687. Placed on General File as amended.
(Standing Committee amendment, AM2432, may be found in the Bill Books. The amendment has been printed separately and is on file in the Bill Room - Room 1102.)

(Signed) Jon Bruning, Chairperson

AMENDMENTS - Print in Journal

Senator Suttle filed the following amendment to LB 22:
(Amendment, AM2306, may be found in the Bill Books. The amendment has been printed separately and is on file in the Bill Room - Room 1102.)

Senator Chambers filed the following amendment to LB 752:
AM2443

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. The Legislature finds and declares that the
- 4 interests of justice are thwarted by unreliable testimony at trial.
- 5 There is a compelling state interest in providing safeguards
- 6 against the admission of testimony the reliability of which may be
- 7 or has been compromised through improper inducements.
- 8 The Legislature further finds and declares that the
- 9 testimony of a jailhouse informer is inherently unreliable. A
- 10 jailhouse informer due to the receipt or promise of a benefit, is
- 11 presumed to provide testimony that is unreliable.
- 12 For purposes of sections 1 to 3 of this act, a jailhouse
- 13 informer is a person in custody as an accused defendant, a
- 14 convicted defendant awaiting sentencing, a convicted defendant

15 serving a sentence, or a criminal suspect.

16 Sec. 2. Before the testimony of a jailhouse informer is
17 admissible in court, a pretrial hearing shall be conducted by the
18 court at which time the state shall prove to the court's
19 satisfaction that the truthfulness of the jailhouse informer's
20 statements to be given at trial is more probable than not.

21 Sec. 3. At least ten days before trial, the state shall
22 disclose to the person against whom the jailhouse informer will
23 testify, or to such person's counsel:

24 (1) The complete criminal history of the jailhouse
1 informer;

2 (2) Any deal, promise, inducement, or benefit that the
3 state or any person acting on behalf of the state has made or may
4 make in the future to the jailhouse informer;

5 (3) The specific statements allegedly made by the person
6 against whom the jailhouse informer will testify and the time,
7 place, and manner of disclosure;

8 (4) All known cases in which the jailhouse informer
9 testified or offered statements against a person but was not called
10 as a witness, whether or not the statements were admitted as
11 evidence in the case, and whether the jailhouse informer received
12 any deal, promise, inducement, or benefit in exchange for or
13 subsequent to such testimony or statement;

14 (5) Whether at any time the jailhouse informer recanted
15 such testimony or statement and, if so, a transcript or copy of
16 such recantation; and

17 (6) Any other information relevant to the jailhouse
18 informer's credibility.".

Senator Raikes filed the following amendment to LB 824:
AM2441

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:
3 "Section 1. Section 28-101, Revised Statutes Supplement,
4 2000, is amended to read:

5 28-101. Sections 28-101 to 28-1348 and sections 2 to 7
6 of this act shall be known and may be cited as the Nebraska
7 Criminal Code.

8 Sec. 2. Sections 2 to 7 of this act shall be known and
9 may be cited as the Criminal Termination of Pregnancy Act.

10 Sec. 3. (1) A person commits criminal termination of
11 pregnancy in the first degree if he or she in committing an act or
12 engaging in conduct that causes the termination of pregnancy,
13 intends, with deliberate and premeditated malice, to terminate the
14 pregnancy or kill the pregnant woman with knowledge of the
15 pregnancy.

16 (2) Criminal termination of pregnancy in the first degree
17 is a Class IA felony.

18 Sec. 4. (1) A person commits criminal termination of

19 pregnancy in the second degree if he or she, in committing an act
20 or engaging in conduct that terminates the pregnancy, intends, but
21 without premeditation, to terminate the pregnancy or kill another.
22 (2) Criminal termination of pregnancy in the second
23 degree is a Class IB felony.

24 Sec. 5. (1) A person commits criminal termination of
1 pregnancy in the third degree if he or she (a) terminates a
2 pregnancy without malice upon a sudden quarrel with any person or
3 (b) causes the termination of pregnancy unintentionally while in
4 the perpetration of or attempt to perpetrate a criminal assault,
5 any sexual assault, arson, robbery, kidnapping, intentional child
6 abuse, hijacking of any public or private means of transportation,
7 or burglary.

8 (2) Criminal termination of pregnancy in the third degree
9 is a Class III felony.

10 Sec. 6. (1)(a) A person who causes the termination of
11 pregnancy unintentionally while engaged in the operation of a motor
12 vehicle in violation of the law of the State of Nebraska or in
13 violation of any city or village ordinance commits misdemeanor
14 motor vehicle termination of pregnancy.

15 (b) Misdemeanor motor vehicle termination of pregnancy is
16 a Class I misdemeanor.

17 (2)(a) A person commits motor vehicle termination of
18 pregnancy by reckless or willful reckless driving if the proximate
19 cause of the termination of pregnancy is the operation of a motor
20 vehicle in violation of section 60-6,213 or 60-6,214.

21 (b) Motor vehicle termination of pregnancy by reckless or
22 willful reckless driving is a Class IV felony.

23 (3)(a) A person commits motor vehicle termination of
24 pregnancy by driving under the influence if the proximate cause of
25 the termination of pregnancy is the operation of a motor vehicle in
26 violation of section 60-6,196.

27 (b) Except as provided in subdivision (c) of this
1 subsection, motor vehicle termination of pregnancy by driving under
2 the influence is a Class IV felony and the court shall, as part of
3 the judgment of conviction, order the person not to drive any motor
4 vehicle for any purpose for a period of at least sixty days and not
5 more than fifteen years after the date ordered by the court and
6 shall order that the operator's license of such person be revoked
7 for the same period. The revocation shall not run concurrently
8 with any jail term imposed.

9 (c) If a person commits motor vehicle termination of
10 pregnancy by driving under the influence and the defendant has a
11 prior conviction under section 60-6,196 or a city or village
12 ordinance enacted pursuant to such section, motor vehicle
13 termination of pregnancy by driving under the influence is a Class
14 III felony and the court shall, as part of the judgment of
15 conviction, order the person not to drive any motor vehicle for any
16 purpose for a period of at least sixty days and not more than

- 17 fifteen years after the date ordered by the court and shall order
 18 that the operator's license of such person be revoked for the same
 19 period. The revocation shall not run concurrently with any jail
 20 term imposed.
 21 Sec. 7. The Criminal Termination of Pregnancy Act does
 22 not apply to procedures performed under sections 28-325 to 28-345,
 23 71-6901 to 71-6909, or as otherwise allowed by law.
 24 Sec. 8. If any section in this act or any part of any
 25 section is declared invalid or unconstitutional, the declaration
 26 shall not affect the validity or constitutionality of the remaining
 27 portions.
 1 Sec. 9. Original section 28-101, Revised Statutes
 2 Supplement, 2000, is repealed.
 3 Sec. 10. Since an emergency exists, this act takes
 4 effect when passed and approved according to law."

Senator Wickersham filed the following amendment to LB 123:
 AM2440

- 1 1. On page 3, line 14, strike "2001" and insert "2002".

NOTICE OF COMMITTEE HEARINGS

Education

Room 1525

LB 1169	Tuesday, February 5, 2002	1:30 PM
LB 1170	Tuesday, February 5, 2002	1:30 PM
LB 1180	Tuesday, February 5, 2002	1:30 PM
LB 1159	Tuesday, February 5, 2002	1:30 PM
LB 1248	Tuesday, February 5, 2002	1:30 PM

(Signed) Ron Raikes, Chairperson

General Affairs

Room 1510

LB 873	Monday, February 4, 2002	1:30 PM
LB 1068	Monday, February 4, 2002	1:30 PM
LB 1126	Monday, February 4, 2002	1:30 PM
LB 1247	Monday, February 4, 2002	1:30 PM

(Signed) Ray Janssen, Chairperson

Transportation and Telecommunications

Room 1113

LB 1069	Monday, February 4, 2002	1:30 PM
LB 1195	Monday, February 4, 2002	1:30 PM
LB 1211	Monday, February 4, 2002	1:30 PM
LB 1269	Monday, February 4, 2002	1:30 PM

LB 1286	Monday, February 4, 2002	1:30 PM
LB 883	Tuesday, February 5, 2002	1:30 PM
LB 923	Tuesday, February 5, 2002	1:30 PM
LB 998	Tuesday, February 5, 2002	1:30 PM
LB 1150	Tuesday, February 5, 2002	1:30 PM
LB 1298	Tuesday, February 5, 2002	1:30 PM

(Signed) Curt Bromm, Chairperson

STANDING COMMITTEE REPORT

Natural Resources

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Game and Parks Commission
William L. Grewcock

VOTE: Aye: Senators Bruning, Hudkins, Jones, Kremer, Preister, Schrock, and Stuhr. Nay: None. Absent: Senator Bromm.

(Signed) Ed Schrock, Chairperson

ANNOUNCEMENTS

Senator Foley designates LB 825 as his priority bill.

Senator Kruse designates LB 1187 as his priority bill.

UNANIMOUS CONSENT - Add Cointroducers

Senator Aguilar asked unanimous consent to have his name added as cointroducer to LB 112. No objections. So ordered.

Senator Beutler asked unanimous consent to have his name added as cointroducer to LB 79. No objections. So ordered.

VISITORS

Visitors to the Chamber were Sam White from North Platte; and Doug Kindig from LaVista.

ADJOURNMENT

At 11:22 a.m., on a motion by Senator Coordsen, the Legislature adjourned until 9:00 a.m., Tuesday, January 29, 2002.

Patrick J. O'Donnell
Clerk of the Legislature